

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

DREAMDEALERS USA, LLC,  
 Plaintiff(s),

vs.

SPEED VEGAS LLC, et al.,  
 Defendant(s).

Case No. 2:16-cv-01298-RFB-NJK

ORDER

Pending before the Court is a discovery plan through which Defendants seek a stay of discovery. Docket No. 30. The Court held a hearing on November 3, 2016. Docket No. 37. For the reasons discussed below, the Court **STAYS** discovery pending resolution of Defendants' motion to dismiss.

The Court has broad discretionary power to control discovery. *See, e.g., Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). "The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending." *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). The party seeking a stay carries the heavy burden of making a strong showing why discovery should be denied. *See, e.g., Turner Broadcasting Sys., Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997). The case law in this District makes clear that requests to stay all discovery may be granted when: (1) the pending motion is potentially dispositive; (2) the potentially dispositive motion can be decided without additional discovery; and (3) the Court has taken a "preliminary peek" at the merits of the potentially dispositive motion and is convinced that the plaintiff

1 will be unable to state a claim for relief. *Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D.  
2 Nev. 2013).<sup>1</sup>

3 The Court finds that a stay of discovery is appropriate in this case. First, the pending motion is  
4 potentially dispositive in scope given that all federal claims are challenged and the state law claims  
5 would be subject to dismissal if the federal claims are dismissed. *See* 28 U.S.C. § 1367. Second, the  
6 pending motion can be decided without discovery. *See Kor Media*, 294 F.R.D. at 582 (motions to  
7 dismiss under Rule 12(b)(6) focus on the sufficiency of the pleadings, not whether the plaintiff could  
8 find evidence to support the pleadings). Third, the Court finds a sufficient likelihood that Plaintiff  
9 cannot state a claim for relief such that a stay of discovery is proper.

10 In the event the order resolving the motion to dismiss does not result in the disposition of this  
11 case, the parties shall file within 14 days thereof a joint status report regarding whether discovery should  
12 proceed and, if so, a schedule for discovery.

13 IT IS SO ORDERED.

14 DATED: November 4, 2016

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16 NANCY J. KOPPE  
17 United States Magistrate Judge  
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26 <sup>1</sup> Conducting this preliminary peek puts the undersigned in an awkward position because the assigned  
27 district judge who will decide the motion to dismiss may have a different view of its merits. *See Tradebay*,  
28 278 F.R.D. at 603. The undersigned's "preliminary peek" at the merits of that motion is not intended to  
prejudice its outcome. *See id.*